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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,368	03/17/2004	Steven A. Lewis	H0004143-1140	3798

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EXAMINER

CASAREGOLA, LOUIS J

ART UNIT

PAPER NUMBER

3746

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,368

Applicant(s)

LEWIS, STEVEN A.

Examiner

Louis J. Casaregola

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-25 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Comment On Claim Terminology

Certain terms used in the present claims are inconsistent with the terminology used in the drawing and specification to describe the preferred embodiment of the invention. The claims designate the gas generator metering valve as the "first metering valve" and the augmentor metering valves as "second" and "third" metering valves, but the preferred embodiment of the invention designates the gas generator metering valve as the "main metering valve" (element 58) and further designates one of the augmentor metering valves as the "first metering valve" (element 76). Note also that the augmentor fuel system in the preferred embodiment has first, second and third branches 70, 72 and 74, each with a corresponding metering valve, but the branch numbers used in the present claims, i.e. claims 16 and 24, do not properly correspond to the numbers used in the preferred embodiment. While this office action is not an action on the merits, applicant is cautioned that the inconsistent use of terminology in this case is likely to cause considerable confusion and may result in an objection and/or § 112 rejection in a subsequent office action. Applicant is therefore advised to consider submitting an amendment correcting this problem along with the response to the restriction requirement set forth below.

Restriction Requirement

Restriction to one of the following inventions is required under 35 USC 121:

- I. Claims 1-16 and 24-25 drawn to a gas turbine fuel system classified in Class 60, subclass 764, and
- II. Claims 17-23 drawn to a method of supplying fuel to a gas turbine classified in Class 60, subclass 204.

The inventions of Groups I and II are distinct because the method of Group II could be practiced with apparatus materially different than that of Group I. The claimed method, for example, does not require a third or auxiliary fuel line between the diverter valve and first fuel line as specified in the claimed apparatus; a valve of the proper type could perform the required fuel diversion steps using only the first and second fuel lines.

Because these inventions are distinct for the reasons given above and require separate classification and/or divergent fields of search, restriction for examination purposes as indicated is proper.

Applicant is advised that even in the event that the restriction requirement is traversed, the response to this requirement to be complete must include an election of the invention to be examined.

In addition to the above restriction between apparatus and method, further election of individual species is required.

Species Election

This application encompasses two species of the inventive subject matter. The present invention has two modes of operation, a first mode in which all gas generator fuel is supplied by the main metering valve during normal operation and a second mode in which some fuel from an augmentor metering valve is diverted to the gas generator during normal operation (see page 10). Each of these modes constitutes a different form of operation exclusive of the other mode. Each mode consequently defines, at least with respect to the method claims, a different species. Pursuant to 35 USC 121, applicant is required for a complete response to (1) elect a single disclosed species and (2) list all claims readable on the elected species including any claims subsequently added (MPEP 809.02(a)).

Claim 17 appears to be generic.

Applicant is further advised that a mere argument alleging that a generic claim is allowable will not satisfy a species election requirement. For a complete response, applicant must elect a single species and list the claims readable on that species as set forth above. (Since applicant may need to submit an amendment before first action on the merits in this case, election by telephone would be inappropriate and applicant has consequently not been offered the option of a telephone election in this instance.)

Art Unit: 3746



L. J. Casaregola
571-272-4826 (M-F; 7:30-4:00)
571-273-8300 FAX
April 11, 2006, 2001

If repeated attempts to reach the examiner by telephone are unsuccessful, the art unit supervisor, Timothy Thorpe, can be reached at 571-272-4444.

Information regarding the status of this application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR, and status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).